

Appln. No. 10/764,362
Amendment dated December 26, 2006
Reply to Office Action mailed September 25, 2006

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claims 13 and 20 remain in this application. Claims 1 through 12, 14 through 19, and 21 have been cancelled. No claims have been withdrawn or added.

Parts 1 through 6 of the Office Action

Claims 1 through 4, 15 through 17 and 21 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schaller.

Claims 1 through 6, 15 through 18 and 21 have been rejected under 35 U.S.C. §102(b) as being anticipated by Miller.

Claim 10 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Schaller.

Claim 11 and 12 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Schaller or Miller in view of Salmi.

Claim 5 through 9, 18 and 19 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Howell in view of Schaller.

Claim 13 and 20 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Howell and Schaller as applied to claims 5 through 9, 18 and 19 above and further in view of Salmi as applied above.

Claims 13 and 20 each requires, in part, "wherein the support structure includes at least one longitudinal member extending substantially parallel to one of the rails of the ladder, and a plurality of cross members extending

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between the longitudinal member and the said one rail of the ladder, wherein the longitudinal member and substantially all of the plurality of cross members comprise substantially tubular elements with interiors, *wherein the interiors of substantially all of the cross members are in fluid communication with the interior of the longitudinal member*" and "wherein each of the cross members has a pair of opposite ends, a first one of the opposite ends being mounted on the longitudinal member and a second one of the opposite ends being mounted on the rail, *at least one of the ends of the cross member being in fluid communication with the longitudinal member*" (all emphasis added).

It is conceded in the rejection of the final Office Action that the Howell patent does not show structure "formed by interconnecting tubular elements with interior communicating passages". It is then contended in the rejection that:

Schaller shows a ladder structure formed from tubular elements having interior communicating passages.

And it is further asserted that:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Howell for his ladder structure to be formed from interconnected tubular elements having interior communicating passages, as taught by Schaller, to enable a strong lightweight economical structure.

However, while it is contended that one of ordinary skill in the art would have been motivated to incorporate these features of the Schaller ladder into the Howell structure to provide a "strong lightweight economical structure", it is not apparent where one of ordinary skill in the art would have obtained this motivation. Clearly, such motivation is not provided by the Schaller, which says nothing of these alleged benefits. Further, it is not clear how the incorporation of the Schaller features into the Howell structure would make it "lightweight", as the purpose of this structure in the Schaller ladder is to permit water circulation through the elements of the ladder. Not only

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is this not likely to make the ladder of Howell lighter in weight, it would tend to make the aerial ladder of Howell much heavier if water was circulated through the ladder as advocated by the Schaller patent.

Further, it is not clear how the allegedly obvious inclusion of the selected features of Schaller would make the Howell ladder stronger, as Schaller appears to suggest that added strength comes from water pressure in the interior of the ladder, which would conflict with the "lightweight" motivation also set forth in the rejection.

It is also not clear how the adoption of the selected aspects of the Schaller ladder would make the Howell ladder more "economical", as the Schaller patent does not make such a claim.

The rejection of claims 13 and 20 then includes the teaching of Salmi patent in the allegedly obvious combination. It is again noted that the Salmi patent shows structure in which the interiors of the elements of the structure are clearly isolated from each other, and thus appears to contradict the showing in the Schaller patent. One of ordinary skill in the art would expect that the Howell structure is similar to Salmi, except that the Salmi patent shows more detail of the structure.

It is therefore submitted that the Howell, Schaller and Salmi patents would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claims 13 and 20, and therefore these claims are submitted to be in condition for allowance.

Withdrawal of the §102(b) and §103(a) rejections of claims 1 through 13 and 15 through 21 is therefore respectfully requested.

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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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